#### **BEFORE**

## THE PUBLIC SERVICE COMMISSION OF

## SOUTH CAROLINA

DOCKET NO. 1997-239-C - ORDER NO. 2003-215

APRIL 15, 2003

IN RE: Proceeding to Establish Guidelines for an

Intrastate Universal Service Fund

ORDER ADDRESSING

THE UNIVERSAL

) SERVICE FUND

#### I. PROCEDURAL BACKGROUND

This matter comes before the South Carolina Public Service Commission ("Commission") upon the application of Bluffton Telephone Company, Inc., Farmers Telephone Cooperative, Inc., Hargray Telephone Company, Inc., Home Telephone Company, Inc., Horry Telephone Cooperative, Inc., and PBT Telecom ("6 LECs") for funding from the South Carolina Universal Service Fund ("State USF") pursuant to S.C. Code Ann. § 58-9-280(E) (Supp. 2001) and Commission Order No. 2001-419 in this docket. Commission Order No. 2001-419 approved a phased-in plan for implementing the State USF. By its Order No. 2001-996, the Commission approved guidelines and administrative procedures relating to the phased-in approach. Pursuant to its statutory authority as implemented in its orders, the Commission implemented the first (access) step of the first phase of State USF on October 1, 2001. This step allowed incumbent local exchange carriers in South Carolina to reduce their access charges by approximately 50% and to recover the resulting lost revenues from the State USF.

The current proceeding was scheduled to implement the second (end user) step of the first phase of State USF. According to the plan approved by the Commission, local exchange carriers could file tariffs reducing end user rates that contained implicit support for basic local service on April 1, 2001, and recover those amounts from the State USF. The first phase of the State USF was limited so that local exchange carriers could not recover more than 1/3 of the total State USF to which they may be entitled pursuant to the cost studies approved in Commission Order No. 98-322 in this docket.

On March 22, 2002, the South Carolina Telephone Coalition requested an extension of time in which to file proposed tariff reductions to implement the second (end user) step of the first phase of the State USF. The Commission granted the companies' request for an extension until June 1, 2002. Subsequently, on May 31, 2002, the 6 LECs filed tariffs reflecting reductions in certain end user rates.

Bluffton Telephone Company's filing seeks to reduce the rate for its Measured Extended Area Service (MEAS), one of several Area Calling Plan (ACP) tariff offerings, from \$0.126 to \$0.053 per minute. To offset the reduction on a revenue-neutral basis, Bluffton proposes to withdraw additional funding from the State USF in the amount of \$395,630.

Farmers Telephone Cooperative's filing seeks to reduce the rate for its IntraLATA Flat Rate Service from \$0.099 to \$0.035 per minute. To offset the reduction on a revenue-neutral basis, Farmers proposes to withdraw additional funding from the State USF in the amount of \$3,172,374.

Hargray Telephone Company's filing seeks to reduce the rate for its MEAS, one of several ACP tariff offerings, from \$0.126 to \$0.053 per minute. To offset the

reduction on a revenue-neutral basis, Hargray proposes to withdraw additional funding from the State USF in the amount of \$602,171.

Home Telephone Company's filing seeks to reduce monthly buy-in rates and per minute rates for several types of Calling Plan Service ("CPS"), as detailed in the following table:

Service	Current Tariff Rate	Revised Tariff Rate
IntraLATA Toll	\$0.2171	\$0.08
7 Digit Dial Option 8 AM to 8 PM	\$0.18	\$0.08
7 Digit Dial Option 8 PM to 8 AM	\$0.09	\$0.08
Residential Only Measured Rate	\$3.00	\$0.50
Option – Buy In		
Residential MRO calls 8 AM-8 PM	\$0.0657	\$0.045
Flat Rate Option Unlimited TriCty	\$35.00	\$28.95
Flat Rate Option - Coastal Calling	\$0.0876	\$0.045
Business Capped Option A- monthly charge	\$15.00	\$5.00
Bus.Cap-Option B	\$30.00	\$13.00
Bus.Cap-Option C	\$75.00	\$36.00
Bus.Cap-Option C after 10,000 min.	\$0.04	\$0.03
Standard Measured Bus. – Buy In	\$8.00	\$3.00
Meas. Rate – Option B Buy In	\$18.00	\$10.00
Meas. Rate – Option C Buy In	\$33.00	\$22.00

To offset the reduction on a revenue-neutral basis, Home proposes to withdraw additional funding from the State USF in the amount of \$1,067,718.

Horry Telephone Cooperative's filing seeks to reduce the rate for its Measured Regional Service (MRS), one of several ACP offerings, from \$0.085 to \$0.03 per minute. To offset the reduction on a revenue-neutral basis, Horry proposed to withdraw additional funding from the State USF in the amount of \$812,228.

PBT Telecom's filing seeks to reduce monthly buy-in rates and per minute rates for several measured and flat rate ACP offerings, as detailed in the following table:

Service	Current Tariff Rate	Revised Tariff Rate
Bus&Res Option 1 8 AM to 8 PM	\$0.11	\$0.059
Bus&Res Option 1 8 PM to AM	\$0.055	\$0.0295
Res. Option 2 Buy In	\$2.00	\$0.00
Bus&Res Option 2 8 AM to 8 PM	\$0.088	\$0.059
Bus&Res Option 2 8PM to 8 AM	\$0.044	\$0.0295
Business Option 2 Buy In	\$3.00	\$0.00
Business Option 3 Buy In	\$20.00	\$15.00
Business Option 3 8AM to 8PM	\$0.055	\$0.029
Res. Option 3 Buy In	\$30.00	\$24.95

To offset the reduction on a revenue-neutral basis, PBT proposes to withdraw additional funding from the State USF in the amount of \$585,367.

In total, the companies seek additional funding from the State USF of approximately \$6.6 million.

Along with the tariff filings, the 6 LECs filed detailed cost data consisting of embedded cost of service studies clearly demonstrating that implicit support exists in the rates that are sought to be reduced, as required by paragraph 12 of Commission Order No. 2001-419. Each of the 6 LECs filed a motion requesting confidential treatment of its cost study. By Order No. 2002-481, the Commission approved the request and agreed that making the information publicly available could give actual and potential competitors an unfair competitive advantage.

The Commission issued a Notice of Filing and Hearing in this matter under existing Commission Docket No. 97-239-C, which relates to State USF matters. This is an open docket in which numerous parties have intervened, including the South Carolina Telephone Association ("SCTA"); the South Carolina Telephone Coalition ("SCTC"); BellSouth Telecommunications, Inc. ("BellSouth"); GTE South, Incorporated, now known as Verizon South, Incorporated ("Verizon"); the Consumer Advocate for the State of South Carolina ("Consumer Advocate"); the South Carolina Cable Television Association ("SCCTA"); Southeastern Competitive Carriers Association ("SECCA"); Worldcom, Inc. ("WorldCom"); Alliance for South Carolina's Children ("Alliance"); South Carolina Fair Share and the Women's Shelter ("SC Fair Share"); AT&T Communications of the Southern States, LLC ("AT&T"); South Carolina Public Communications Association ("SCPCA"); John C. Ruoff, Ph.D. ("Ruoff"); United Telephone Company of the Carolinas, Inc. ("Sprint/United"); e\*spire Communications; South Carolina Budget and Control Board, Office of Information Resources ("OIR"); LCI International, Inc. ("LCI"); Pro-Parents; ALLTEL South Carolina, Inc. and ALLTEL Communications, Inc. ("ALLTEL"); Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"); ITC^DeltaCom; and Crown Castle USA, Inc.

A public hearing was held in this matter on January 29, 2003. During the hearing, the 6 LECs were represented by M. John Bowen, Jr., Esquire and Margaret M. Fox, Esquire. The 6 LECs presented the testimony of H. Keith Oliver and Emmanuel Staurulakis.

The Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire. The Consumer Advocate presented the testimony of Allen G. Buckalew.

SCCTA, AT&T and SECCA were represented by Frank R. Ellerbe, III, Esquire. SECCA presented the testimony of William J. Barta. Neither the SCCTA nor AT&T presented a witness.

WorldCom was represented by Darra W. Cothran, Esquire. WorldCom presented the testimony of Greg Darnell.

Verizon Wireless was represented by John M.S. Hoefer, Esquire. Verizon Wireless presented no witnesses.

Verizon was represented by Steven W. Hamm, Esquire. Verizon presented no witnesses.

BellSouth was represented by Patrick Turner, Esquire. BellSouth presented no witnesses.

The Commission's Staff was represented by F. David Butler, General Counsel.

The Commission Staff presented no witnesses.

#### II. SUMMARY OF TESTIMONY

# H. KEITH OLIVER

The 6 LECs presented the direct testimony of H. Keith Oliver, Vice President, Finance, for Home Telephone Company, Inc. Mr. Oliver gave an overview of the case. He gave a short summary of the proceedings that preceded the instant hearing, described some of the marketplace and technological changes driving universal service changes, and explained the need for state action on universal service in light of recent actions at the federal level. Mr. Oliver testified that the requests in these proceedings are consistent with state and federal law, and that the proposed rate reductions are necessary to maintain support for basic local service.

## **EMMANUEL STAURULAKIS**

The 6 LECs also presented the direct and rebuttal testimony of Emmanuel Staurulakis, President of John Staurulakis, Inc. (JSI), a telecommunications consulting firm. Mr. Staurulakis described the cost methodology used to determine the level of implicit support contained in the rates of the end user services proposed for reduction by the 6 LECs. He also described the process that each of the 6 LECs used to identify the end user services that were selected for price reduction. Mr. Staurulakis testified that the request for State USF was revenue neutral for the companies because they could not receive funds until tariff reductions were approved. He testified that the proposed end user rates for the 6 LECs were set at levels above the calculated cost of service for each service. He testified that the cost methodology utilized in the cost studies conducted and submitted in the instant proceeding is consistent with the cost methodology previously approved by the Commission in this docket. He testified that for each of the 6 LECs, the

amount of funding per the first (access) step of the initial phase when combined with the second (end user) step does not exceed the one-third limitation approved by the Commission.

## ALLEN G. BUCKALEW

The Consumer Advocate presented the testimony of Allen G. Buckalew, an economic consultant with J.W. Wilson & Associates, Inc. Mr. Buckalew testified that he had some questions about the cost studies, but that the 6 LECs had answered them to his satisfaction. Mr. Buckalew testified that the cost studies do not show that local exchange service is priced below cost or that the subsidy from intraLATA flat-service is supporting local service. He testified that the embedded cost studies are not sufficient to justify additional funding from the State USF. He further testified that State USF funding is not appropriate if companies are earning more than the authorized rate of return, that the companies have not shown a competitive need to lower the rates for the services, that the companies should impute access charges into their cost calculations, and that the effect of demand stimulation should be taken into account.

# WILLIAM BARTA

SECCA presented the testimony of William Barta, the founder of Henderson Ridge Consulting, Inc., a regulatory consulting firm. SECCA pre-filed two versions of Mr. Barta's testimony – a proprietary version (filed under seal) that discussed specific numbers from the 6 LECs' confidential cost studies and a redacted version containing only general information that was filed and served on all parties. Mr. Barta reviewed and commented upon the embedded cost studies submitted to the Commission by the 6 LECs. Mr. Barta noted that the 6 LECs are permitted under State statute and Commission order

to submit embedded cost studies in support of their requests for withdrawals from the State USF. He testified, however, that 5 of the 6 LECs are earning well under the authorized rates of return on an unadjusted basis, and that rate design and State USF may be more effectively addressed in tandem. Mr. Barta also testified that the structure of the cost studies allows the 6 LECs to apportion a small fraction of their total company expenses to service offerings other than basic local exchange service. He testified that the pricing discretion afforded the 6 LECs is detrimental to the development of competition. He testified that some of the expense activity included in the embedded cost studies may not be appropriate or reasonable for the purpose of regulatory recovery. For a brief portion of Mr. Barta's testimony, the hearing room was cleared of all persons who had not signed a protective agreement with respect to the 6 LECs' confidential cost studies so that Mr. Barta could respond to questions regarding specific numbers contained in those studies.

## **GREG DARNELL**

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WorldCom presented the testimony of Greg Darnell, Senior Manager – Public Policy for WorldCom. Mr. Darnell opposed the increases in the State USF requested by the 6 LECs. Mr. Darnell testified that the 6 LECs had not demonstrated the difference between their cost of providing basic local exchange service and the maximum amount they may charge for such service; that the Commission had not determined the size of the State USF; that the 6 LECs have not shown a competitive loss that affects universal service as a result of changes in interstate access rates and wireless competition; and that the State USF funding process is bad public policy. Mr. Darnell also stated that the

Commission should investigate whether companies providing radio-based local exchange service should be required to contribute to the State USF.

## III. OBJECTIONS AND MOTIONS

A number of objections and motions were made during the course of the hearing, which can be summarized as follows:

## **OBJECTIONS TO TESTIMONY**

## H. Keith Oliver

Counsel for SCCTA, SECCA, and AT&T objected to Mr. Oliver's testimony on the ground that Mr. Oliver is an employee of Home Telephone Company and there was no proper foundation laid for Mr. Oliver to testify on behalf of the other five petitioning companies. See TR at 8. Counsel for the 6 LECs responded that Mr. Oliver's testimony was generic in nature and he was not testifying to the specifics of the companies' requests. Id. Counsel for the 6 LECs noted that another witness, a consultant employed by the 6 LECs, would testify as to the specific cost of service studies and specific company numbers. TR at 8-9. This Commission took this motion under advisement. We agree with counsel for the 6 LECs. Mr. Oliver's testimony is general in nature and provides us with an overview of the petitions and the background of the proceedings that led to the fillings. We therefore deny the motion and allow Mr. Oliver's testimony into the record.

# Allen G. Buckalew

Counsel for the 6 LECs objected to and moved to strike specific portions of Mr. Buckalew's testimony on the ground that the testimony raises issues that have previously been decided by the Commission and, in many instances, affirmed by the Circuit Court.

Specifically, the 6 LECs cited Mr. Buckalew's testimony dealing with whether or not the 6 LECs had demonstrated that local exchange rates are priced below cost [Buckalew Prefiled Testimony at p. 8 (TR at 147), lines 1-17]; his testimony regarding whether or not it is appropriate for the companies to receive State USF funding without an examination of their earnings [Buckalew Prefiled Testimony at 9 (TR at 148), lines 1 through 11]; and his testimony regarding whether or not the companies properly allocated joint and common cost in the cost studies that were approved by the Commission in Order No. 98-322 [Buckalew Prefiled Testimony at 11 (TR at 150), line 4 beginning with the words, "and the second problem is . . ." through line 13].

This motion was taken under advisement. After due reflection, we deny the motion and admit the testimony. Whereas we understand counsel's motion, we will allow the testimony in the record for whatever it may be worth to our decision-making process. As a jury of experts, we are free to accept or reject testimony in whole or in part. We prefer to be able to exercise this right in the present case, and we will do so at the proper time in this Order.

# Greg Darnell

Likewise, counsel for the 6 LECs moved to strike portions of Mr. Darnell's testimony that raise issues already determined by the Commission and by the Circuit Court as follows:

Page 2 (TR at 215), lines 9 through 14

Page 4 (TR at 217), line 22

Page 5 (TR at 218), line 23 through Page 10 (TR at 223), line 16

Page 12 (TR at 225), line 6 through Page 13 (TR at 226), line 14

Page 13 (TR at 226), line 25 through Page 14 (TR at 227), line 9

Page 21 (TR at 234), line 24 through Page 22 (TR at 235), line 13.

This motion was taken under advisement. As we ruled with the motion regarding the testimony of Mr. Buckalew, we believe that we should be able, as counsel for MCI points out, to take the testimony for what it is worth. Further, as was done above, we deny the motion.

## MOTION FOR DIRECTED VERDICT

At the close of the 6 LECs' case, counsel for SCCTA, SECCA and AT&T made a motion in the nature of a nonsuit directed verdict motion. See TR at 127-33. The Consumer Advocate supported the motion. TR at 135-36. The motion was renewed at the end of the hearing. TR at 261. By his motion, counsel asked the Commission to rule as a matter of law that petitioners have not met their obligation under South Carolina Act 354 of 1996 and the Federal Telecommunications Act of 1996 to justify additional State USF funding. TR at 128-29. Counsel stated he was not arguing that the petitioners had not done what was required of them under the Commission's prior State USF orders. Id. He merely disagreed with those prior orders and asked the Commission to reconsider those issues.

We hereby deny the motion in the nature of a motion for directed verdict. As pointed out by counsel for the 6 LECs, this Commission has been through years of hearings, beginning in August 1997, on this matter and has issued detailed and exhaustive orders in this case. Some of those orders were appealed to the Circuit Court. Judge Kinard issued a detailed 44-page order in which he affirmed the Commission's orders and concluded: "There is substantial evidence in the record to support the Commission's

decisions regarding the State USF. The Commission acted properly and in accordance with its statutory mandate, as well as in the interest of the public, in establishing and implementing the State USF." Order of the Honorable J. Ernest Kinard, Jr. dated September 30, 2002, at p. 43. We will proceed to consider the requests of the 6 LECs on their merits.

#### IV. OVERVIEW OF STATE USF PROCEEDINGS

This Commission has detailed the concept and goals of universal service in prior orders, most particularly in Commission Order No. 2001-419 in this docket, and has made a number of public interest findings in approving a plan for a phased-in implementation of State USF. Our review here will focus on the instant filing and whether it complies with our prior orders and serves the public interest.

The instant proceeding is the Commission's fourth proceeding to address State USF. In the first proceeding in Docket No. 97-239-C, which began in August 1997, the Commission adopted guidelines, as required by S.C. Code Ann. § 58-9-280(E). The guidelines, among other things, define the services that are supportable under the State USF, define eligibility requirements for receiving funding from the State USF, declare that funding is portable to any qualified Carrier of Last Resort, and establish the administrator of the State USF. The Commission deferred issues relating to the selection of an appropriate cost model(s) and methodologies; sizing the fund; recovery of USF contributions; and maximum allowable rates. See Commission Order No. 97-753, as modified upon reconsideration in Order Nos. 97-942 and 98-201.

With respect to sizing the fund, the State statute provides that the size of the State USF is the sum of the difference, for each carrier of last resort, between its costs of

providing basic local exchange services and the maximum amount it may charge for the services. S.C. Code Ann. § 58-9-280(E)(4). The State statute defines basic local exchange telephone service as "for residential and single-line business customers, access to basic voice grade local service with touchtone, access to available emergency services and directory assistance, the capability to access interconnecting carriers, relay services, access to operator services, and one annual local directory listing (white pages or equivalent)." S.C. Code Ann. § 58-9-10(9). At the time of the first proceeding, however, the Commission had not yet determined the appropriate methodology to be used to determine costs and thus was unable to size the fund at that time.

In its second proceeding in November 1997, the Commission primarily addressed the selection of appropriate cost model(s) and methodologies, and sizing the State USF. The Commission adopted the Benchmark Cost Proxy Model 3.1 as the state forward-looking cost model for BellSouth, GTE, and Sprint/United, after making certain modifications to company specific inputs. The Commission also adopted the South Carolina Telephone Coalition's proposed embedded cost model, including recommended inputs for rural LECs (other than Sprint/United). All other matters related to the intrastate USF that were not ruled upon were "held in abeyance." See Commission Order No. 98-322.

In the third proceeding, the Commission addressed outstanding issues relating to the State USF and ordered a phased-in implementation of the fund, consistent with the Commission's statutory obligation to "establish a universal service fund (USF) for distribution to a carrier(s) of last resort." S.C. Code Ann. § 58-9-280(E).

Under the State USF implementation adopted by the Commission in Order No. 2001-419, there is a series of steps or phases leading to the full implementation of the State USF. The phase-in will occur in at least three stages. The first phase consists of two steps. The first step, which was implemented effective October 1, 2001, required an immediate reduction of approximately 50% in intrastate access rates. The instant proceeding is to address the second step, which allows for reductions in rates charged directly to the end user. The initial phase (access and end user steps) is limited to no more then 33.33% of total State USF, sized according to the Commission's previously approved guidelines. In addition, each individual LEC is limited to one third of its maximum State USF on a company-specific basis.

Each phase of State USF requires tariff filings to reduce rates in compliance with Section 4 of the State USF guidelines, which requires that carriers of last resort make dollar-for-dollar rate reductions before being permitted to draw funds from the State USF. Tariff filings, if made, are required not later than April 1 of each year, and any rate reductions approved by the Commission for those rates containing implicit support are intended to be implemented on October 1 of each year. In order to receive funding beyond the initial (access) step, any local exchange carrier (LEC) seeking further tariff reductions is required to file detailed cost data with the Commission clearly demonstrating that implicit support exists in the rates that are proposed to be reduced. In addition, each LEC is required to update the results of its cost model before being permitted to withdraw more than one-third of its company-specific State USF amount.

#### V. FINDINGS AND CONCLUSIONS

- 1. The Commission has a statutory obligation to establish a State USF for distribution to carriers of last resort. S.C. Code Ann. § 58-9-280(E).
- 2. The Commission has complied with its statutory obligation to establish a State USF and previously set forth a phased-in schedule for implementing the State USF to ensure that funds are distributed to carriers of last resort. See Order No. 2001-419. The Commission has adopted guidelines and procedures for implementation. See Order No. 2001-996 and State USF Guidelines and Administrative Procedures attached thereto.
- 3. The 6 LECs have filed embedded cost studies that clearly demonstrate that implicit support exists in the rates they seek to reduce, as required by paragraph 12 of Order No. 2001-419. See Hearing Exhibit 3 (cost studies and backup documents). In fact, counsel for SCCTA, SECCA and AT&T essentially conceded that the studies met the requirements of the Commission's prior orders. See TR at 128-29; see also TR at 133, lines 10-14. The Consumer Advocate's witness stated that he had some questions about the cost studies but the companies had answered those questions to his satisfaction. TR at 145, lines 7-8; see also Hearing Exhibit 4 (Company Responses to Interrogatories of Consumer Advocate).
- 4. It is appropriate for rural telephone companies to use embedded cost methodologies for cost of service studies. See S.C. Code Ann. § 58-9-280(J); TR at 183, lines 19-23; TR at 80, line 21 through 81, line 1; Commission Order No. 98-322. The methodology for the cost studies filed by the 6 LECs is consistent with the methodology for cost studies previously approved by the Commission for use by rural companies (other than Sprint/United) for State USF purposes. TR at 81, lines 11-19.

- 5. The end user service rates proposed by the 6 LECs for the respective services they propose to reduce are set above the calculated cost of each service. TR at 80, lines 10-14; see also Hearing Exhibit 3 (Cost Studies and Backup Documents).
- 6. The amount of State USF funding requested by each of the 6 LECs, when combined with the funding received from the first (access) step of the first phase of State USF, does not exceed 1/3 of the company-specific State USF for each respective company. TR at 78, lines 7-10. Therefore, the 6 LECs are not required to update the results of their cost studies at this time for basic local exchange service. TR at 85, lines 5-10. However, should any of the 6 LECs request additional State USF funding that exceeds one-third of its company-specific State USF amount, updated cost studies will be required. See Commission Order No. 2001-419 at 42. Utilizing this previously approved cost-study methodology, the 6 LECs submitted cost and demand data from the most recent year available. As such, the costing methodology utilized to identify implicit support in end-user services is consistent with the methodology utilized to identify the embedded cost of basic local exchange service in the previous proceeding. TR at 84, lines 9-16.
- 7. While we have denied the motion by counsel for the 6 LECs to strike certain portions of the Prefiled Testimonies of Consumer Advocate witness Buckalew and WorldCom witness Darnell, a review of the record, including the prior orders of this Commission, shows that the cited portions of those testimonies raise issues that have previously been determined by this Commission. Specifically, issues relating to the methodologies of cost studies, sizing of the fund, company earnings and revenue neutrality have previously been addressed and resolved by the Commission. See, e.g.,

Commission Order Nos. 98-322 and 2001-419. Furthermore, those determinations have been affirmed by the Circuit Court. See Order of The Honorable J. Ernest Kinard, Jr. dated September 30, 2002. We do not believe it is appropriate or necessary to change our previous determinations with respect to those issues.

- 8. Other arguments raised in opposition to the 6 LECs' petitions are also not convincing. Some of the parties propose new procedures that are inconsistent with those we have previously adopted. For example, some parties propose that we take into account the stimulation in demand for those services whose rates will be reduced in calculating the State USF funding needed to offset the loss. See TR at 150-51; 191. This would be a difficult task and is not likely to yield accurate results. Demand stimulation is hypothetical at best. While there is a possibility demand would increase with a decrease in price, there is also a possibility that demand would decrease, depending on the nature of the calling plan and what other providers in the area are offering. See TR at 92, lines 3-22. Further, as Mr. Oliver testified, the purpose behind reducing the selected rates is to "slow the flow of minute loss," so whether the companies would have more minutes of use or would merely be slowing the loss of minutes of use is unclear. TR at 34-35. Additionally, even if there were a stimulation of minutes of use, it would likely be accompanied by an increase in expenses to meet the demand. TR at 35; 99-100.
- 9. Likewise, implementing a procedure to track the accuracy of projected revenue losses is unnecessary. The State USF is set up so that the amount of funding is calculated at the time the funding is implemented and converted to a per-line amount for portability purposes. See TR at 37; see also, e.g., Section IV.D. of State USF Administrative Procedures, attached as Exhibit B to Commission Order No. 2001-996.

Once the State USF is calculated on a per-line basis, the amount of funding received by a particular company will track along with the gain or loss of access lines. Thus, the proposed "tracking" mechanism would not only be administratively burdensome, but it is also unnecessary. Furthermore, to the extent overall revenues fluctuate above or below the projected amounts, it is within the purview of the Commission to examine that in its annual earnings reviews. <u>Id</u>.

10. Several of the parties take issue with the Commission's previouslyadopted methodology that allows the 6 LECs to choose which rates they will reduce. See TR at 190; 231. The parties assert this will allow the 6 LECs to regulate competitive entry into their markets. Some of the witnesses argued that all of the 6 LECs' services should be examined at one time, along with the general rate design of the 6 LECs, in determining which rates to reduce first. See, e.g., TR at 145-46; 186. We disagree. One of the objectives of universal service funding is to make explicit funding available to replace the implicit support that currently exists in the rates for certain services. See Order No. 2001-419 at 32, para. 3. The Commission could have implemented the fund all at one time by ordering the immediate removal of all implicit support from rates. The Commission instead chose to take a more cautious, phased-in approach. One of the fundamental points of such an approach is that funding will be implemented in phases. While there is no need to show actual competition or competitive erosion of services before being permitted to reduce rates for those services that contain implicit support See Commission Order No. 2001-419 at 45, para. 27, the companies themselves are in

<sup>1</sup> WorldCom complains that access charges are significantly above cost yet the 6 LECs are choosing to reduce other rates. <u>See</u> TR at 231. The first step of State USF implementation reduced access rates alone by 50%. <u>See</u> Commission Order No. 2001-419 at 33. This second step is for end user rates, so that end users may see the benefits of reduced rates through removal of implicit support as well.

the best position to determine what market pressures exist and which services are more critical than others to reduce.

- Darnell, for example, testified that granting the request would hurt the development of competition because competitive carriers will not know what rates incumbent local exchange carriers (ILECs) will be charging and, therefore, will not have certainty in setting their own rates. TR at 236. This argument is based on the faulty assumption that competitive carriers must set prices for services based on the prices charged by the ILEC. See id. at lines 12-14. To the contrary, competitive carriers are free to make their pricing decisions based on their own cost of providing the service and independently of the universal service considerations that historically have distorted the ILECs' rates. ILECs' rates include implicit support because ILECs have an obligation to provide basic local exchange service to all requesting customers in their respective service areas at affordable (in most cases below-cost) rates. Competitive carriers have no such obligation and can price their services in an economically rational manner based on their cost of providing the service.
- 12. WorldCom's witness testified that State USF funding should not be increased until such time as the Commission addresses the question of whether wireless carriers should be required to contribute to the State USF. TR at 228. State law provides that the Commission shall require a wireless carrier to contribute to the State USF "if, after notice and opportunity for hearing, the commission determines that the company is providing . . . radio-based local exchange services in this State that compete with a local telecommunications service provided in this State." S.C. Code Ann. § 58-9-280(E)(3).

Until such time as such a showing is made, the Commission cannot require wireless carriers to contribute to the State USF. WorldCom or any other interested person is certainly welcome to bring evidence before the Commission to justify a finding that wireless carriers are providing service in competition with local telecommunications service in South Carolina. Until that time, wireless carriers will not be assessed for contributions to the State USF.

13. The 6 LECs' petitions are approved as filed, subject to adjustment by the Commission Staff as appropriate to ensure compliance with our prior orders and the State USF guidelines and administrative procedures. Accordingly, the end user surcharge for all companies contributing to the USF shall be modified from 2.1277% to 2.4719%. This results in an increase of approximately 17 cents per month per customer for the additional surcharge. The new surcharge was calculated by dividing the total intrastate and interstate end user retail revenues by the USF requirement, the latter being made up of access reduction, lifeline, and the reduction in the present case. Although we always hesitate to make any ruling that results in increases to the consumer, we believe that the 6 LECs have proven their case in the present Docket, and that increased funding from the State Universal Service Fund is appropriate as discussed heretofore in this Order to replace implicit support lost by the 6 LECs in rate reductions.

## IT IS THEREFORE ORDERED THAT:

1. The request for additional State USF funding by each of the respective LECs in this matter is granted.

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The proposed tariffs filed by the 6 LECs are approved, effective upon 2.

implementation of the State USF funding to offset the tariff reductions proposed by the 6

LECs, consistent with the revenue neutrality principle of the State USF guidelines.

The Commission will implement the additional State USF funding 3.

approved here effective 90 days after issuance of this Order, but not later than October 1,

2003. The new end user surcharge is 2.4719%.

The motion for a directed verdict made by counsel for SCCTA, SECCA 4.

and AT&T is denied.

Motions to strike certain testimony are disposed of as detailed herein. 5.

This Order shall remain in full force and effect until further Order of the 6.

Commission.

BY ORDER OF THE COMMISSION:

45 Wallh/

Mignon L Clyburn

Chairman

ATTEST:

Garv E. Walsh

**Executive Director** 

(SEAL)